

## § 194.64

comments received on the Notice of Proposed Rulemaking, as well as the Administrator's response to such significant comments and issues, will be prepared and will be made available for inspection in the dockets established pursuant to § 194.67.

### **§ 194.64 Documentation of continued compliance.**

(a) Upon receipt of documentation of continued compliance with the disposal regulations pursuant to section 8(f) of the WIPP LWA and § 194.11, the Administrator will publish a notice in the FEDERAL REGISTER announcing that such documentation has been received, soliciting comment on such documentation, and announcing the Administrator's intent to determine whether or not the WIPP facility continues to be in compliance with the disposal regulations.

(b) Copies of documentation of continued compliance received by the Administrator will be made available for inspection in the dockets established pursuant to § 194.67.

(c) The notice will provide a public comment period of at least 30 days after publication pursuant to paragraph (a) of this section.

(d) Any comments received on such notice will be made available for public inspection in the dockets established pursuant to § 194.67.

(e) Upon completion of review of the documentation of continued compliance with the disposal regulations, the Administrator will publish a notice in the FEDERAL REGISTER announcing the Administrator's decision whether or not to re-certify the WIPP facility.

### **§ 194.65 Notice of proposed rule-making for modification or revocation.**

(a) If the Administrator determines that any changes in activities or conditions pertaining to the disposal system depart significantly from the most recent compliance application, the Agency will publish a Notice of Proposed Rulemaking in the FEDERAL REGISTER announcing the Administrator's proposed decision on modification or revocation, and soliciting comment on the proposal.

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(b) Any comments received on the notice will be made available for inspection in the dockets established pursuant to § 194.67.

### **§ 194.66 Final rule for modification or revocation.**

(a) The Administrator will publish a Final Rule in the FEDERAL REGISTER announcing the Administrator's decision on modification or revocation.

(b) A document summarizing significant comments and issues arising from comments received on the Notice of Proposed Rulemaking as well as the Administrator's response to such significant comments and issues will be prepared and will be made available for inspection in the dockets established pursuant to § 194.67.

### **§ 194.67 Dockets.**

The Agency will establish and maintain dockets in the State of New Mexico and Washington, DC. The dockets will consist of all relevant, significant information received from outside parties and all significant information considered by the Administrator in certifying whether the WIPP facility will comply with the disposal regulations, in certifying whether or not the WIPP facility continues to be in compliance with the disposal regulations, and in determining whether compliance certification should be modified, suspended or revoked.

## **PART 195—RADON PROFICIENCY PROGRAMS**

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AUTHORITY: 15 U.S.C. 2665.

SOURCE: 59 FR 13175, Mar. 18, 1994, unless otherwise noted.

### **Subpart A—General Provisions**

#### **§ 195.1 Purpose and applicability.**

(a) *Purpose.* The purpose of this part is to establish and collect the fees from

applicants and participants required by section 305 of the Toxic Substances Control Act, U.S.C. 2665 to defray the cost to EPA for operating the following programs: The National Radon Measurement Proficiency (RMP) Program, the individual proficiency component of the RMP Program, and the National Radon Contractor Proficiency (RCP) Program.

(b) *Applicability.* This part applies to all applicants and participants in the following EPA programs: The National Radon Measurement Proficiency Program, the individual proficiency component of the RMP Program, and the National Radon Contractor Proficiency Program.

#### § 195.2 Definitions.

Definitions in 15 U.S.C. 2602 and 2662 apply to this part unless otherwise specified in this section. In addition, the following definitions apply:

*Acceptance date* means the date on which EPA enters the application into the data system.

*Accepted application* refers to an application that has been entered into the data system.

*Applicant* means an individual or organization that submits an application to the RMP program, including the individual proficiency component of the RMP program, or the RCP program. An applicant to the RMP program must submit a separate application for each location from which it provides radon measurement services. After the application is accepted by EPA, the applicant becomes a "participant" in the proficiency programs.

*Application* means the documents submitted to EPA by applicants to the RMP and RCP programs which request participation in a program.

*Device/measurement device* means a unit, component, or system designed to measure radon gas or radon decay products.

*EPA* means the U.S. Environmental Protection Agency.

*Individual proficiency/RMP exam* means the exam which evaluates individuals who provide radon measurement services in a residential environment.

*Listed participant* in an individual or organization who has met all the re-

quirements for listing in the RMP and RCP programs.

*Measurement method* is a means of measuring radon gas or radon decay products encompassing similar measurement devices, sampling techniques, or analysis procedures.

*Organization* is any individual, sole proprietorship, partnership, business, company, corporation, college or university, government agency (includes Federal, State and local government entities), laboratory, or institution.

*Participant* is an individual or organization engaged in radon measurement and/or mitigation activities or in offering radon measurement and/or mitigation services to consumers and others, whose proficiency program application EPA has accepted.

*Primary measurement services (primary)* refers to radon measurement services using a specific device which services include the capability to read and/or analyze the results generated from the device.

*Radon Contractor Proficiency (RCP) program* refers to EPA's program to evaluate radon mitigation contractors and the contractor's ability to communicate information to the public.

*Radon Measurement Proficiency (RMP) program* refers to EPA's program to evaluate organizations and individuals offering measurement services to consumers. It provides a means for organizations to demonstrate their proficiency in measuring radon and its decay products in indoor air.

*Radon mitigation contractor* means a contractor who provides radon mitigation services to the public.

*Secondary radon measurement services (secondary)* refers to radon measurement services that do not include the reading or the ability to analyze the results of the measurement devices used. These services may include placement and retrieval of devices, reporting results, and/or consultation with consumers.

#### Subpart B—Fees

##### § 195.20 Fee payments.

(a) *Fee Amounts.* Applicants to and participants in the RMP and RCP programs shall pay fees according to the following fee schedule:

(1) *Organizations Listed for or Seeking Listing for Primary Measurement Services in the RMP Program.* (i) In order to remain a listed participant, each organization that is listed for primary measurement services in the RMP program on the effective date of this section shall pay an annual fee of \$390 for each device.

(ii) Each organization seeking listing for primary measurement services that submits an initial application after the effective date of this section shall pay an annual fee of \$390 per device. This fee will be prorated quarterly, based on the acceptance date of an organization's application.

(iii) Organizations that have or are seeking a listing for secondary measurement services for their primary devices will not be required to pay the additional \$50 fee applicable to secondary organizations.

(2) *Organizations Listed for or Seeking Listing for Secondary Measurement Services in the RMP Program.* (i) In order to remain a listed participant, each organization that is listed for secondary measurement services in the RMP program on the effective date of this section shall pay an annual fee of \$50 for each business location listed.

(ii) Each organization seeking listing for secondary measurement services that submits an initial application after the effective date of this section shall pay an annual fee of \$50 for each business location listed. This fee will be prorated quarterly, based on the acceptance date of an organization's application.

(iii) Primary organizations that have or are seeking secondary listings for methods other than those for which they are listed as a primary, are subject to the fees.

(3) *Individual Proficiency Component of the RMP Program.* (i) In order to remain a listed participant, each individual listed in the RMP individual proficiency program on the effective date of this section shall pay an annual fee of \$105.

(ii) Each individual who submits an initial application after the effective date of this section shall pay an annual fee of \$105. This fee will be prorated quarterly, based on the acceptance date of an individual's application.

(iii) Individuals who have or are seeking listing status as an RMP primary or secondary organization are subject to the applicable fees under paragraphs (a)(1) and (2) of this section.

(4) *RCP Program.* (i)(A) In order to remain a listed participant, each individual listed in the RCP program on the effective date of this section shall pay an annual fee of \$210.

(B) Each individual who is not a listed participant in the RCP program on the effective date of this section and submits an initial application after the effective date of this section shall pay an annual fee of \$210. This fee will be prorated quarterly, based on the acceptance date of an individual's application.

(ii) An organization or individual who is not a listed participant in EPA's radon proficiency programs on the effective date of this section and/or whose proficiency program application has not yet been accepted by EPA becomes subject to the fees described above once its application has been accepted by EPA. Fees for such organizations or individuals will be prorated quarterly, based on the acceptance date of the application. To remain listed, each participant in the RMP or RCP programs, whether individual or organization, shall submit the appropriate annual fee to EPA each year.

(b) *Exemptions.* State and local governments are exempted from these fees under section 305(e)(2) of TSCA, 15 U.S.C. 2665.

(c) *Determination of Fees.* (1) Participants listed in the RMP and RCP programs on the effective date of this section will be sent, by EPA, a payment invoice with its fee calculation at least 30 days before the payment is due. Fees will be assessed based on the current information in EPA's proficiency data bases. Participants who intend to pay the invoiced fee amount must send their payment to EPA following the procedures in the invoice. Organizations or individuals who wish to notify EPA of any errors or corrections they wish to make to their listing status must do so by following the instructions on the payment invoice. Corrected payment invoices for both the RMP Program and the RCP Program shall be sent to: Radon Proficiency

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Programs User Fees, c/o Sanford Cohen and Associates, Inc. (SC&A), 1418 I-85 Parkway, Montgomery, Alabama, 36106. EPA will review the corrections noted on the payment invoice, adjust the payment invoice amount (as appropriate) and issue a new invoice. Participants must pay the amount in the corrected payment invoice within 30 days of the date listed on the corrected invoice.

(2) If the appropriate fee or a revised payment invoice for an individual or organization participating in the RMP or RCP program has not been received by EPA on or before the payment due date, EPA will send, by certified mail, notice that the individual or organization will be delisted from the proficiency program unless he/she pays the fee within 30 days of this second certified notification. If payment still has not been received by EPA after 30 days of the second certified notification, the organization's or individual's listing shall be removed from the proficiency program.

(3) New or initial applicants to the RMP or RCP programs will be assessed a fee at the time of their initial application. EPA will send a payment invoice to the new applicant upon acceptance of the initial application. The applicant will be given at least 30 days from the date on the payment invoice to remit payment. The fee assessed will be prorated quarterly, based on the acceptance date of the application. If the appropriate fee has not been received by EPA by the payment due date, the application will be placed in an inactive file with no further action taken by EPA.

(d) *Payment Procedures.* Each remittance to EPA under this section shall be in United States currency and shall be paid by certified check, personal or business check, or money order made payable to the order of the "U.S. ENVIRONMENTAL PROTECTION AGENCY" and sent to: U.S. EPA, Washington Financial Management Center, Radon Proficiency Program User Fees (IRAA), P.O. Box 952491, St. Louis, Missouri, 63195-2491. The fee payment shall include the original copy of the EPA payment invoice. Collection of fees will begin in the calendar year beginning January 1, 1995. Specific guidance on

how and when fees must be paid can be found in How to Pay Your Radon Proficiency Programs User Fees, U.S. EPA/Office of Radiation and Indoor Air. Copies of this document can be obtained by contacting the RIS at (334) 272-2797 or by FAX at (334) 260-9051.

(e) *Adjustment of Fees.* (1) EPA shall collect 100 percent of its operating costs associated with its radon proficiency programs by calendar year 1998. As necessary, EPA shall adjust the fees established by this subpart each year over the next four years to collect the following percentages of program costs:

Year 1	Year 2	Year 3	Year 4	Year 5
30%	47.5%	65%	82.5%	100%

Actual fees for each fiscal year will be calculated based on program costs and participation rates. New fee schedules will be published in the FEDERAL REGISTER as a technical amendment final rule to this part to become effective 30 days or more after publication.

(2) EPA will use a three-step process to adjust the fees annually. First, EPA will estimate the costs of providing each of the proficiency programs for the upcoming year. EPA will account for future additional fixed costs (e.g., updating examinations) and increases/decreases in variable costs due to inflation and other factors. In order to calculate increases/decreases in costs due to inflation, EPA may use one of the three following indices: the Federal General Schedule (GS) pay scale, the Consumer Price Index (CPI), and/or a component of the CPI, such as services. Second, EPA will estimate the number of participants for each program. At a minimum, these participation rates will be based on past and current program participation rates. Third, EPA shall calculate the per capita costs that individuals and organizations should pay to enable it to recover its fixed and variable costs each year for each program. EPA shall also consider potential industry impacts as it adjusts to levels to ultimately achieve full cost recovery over the period of five years.

[60 FR 41816, Aug. 14, 1995]

**§ 195.30 Failure to remit fee.**

EPA will not process an application or continue a participant's listing in the National Radon Measurement Proficiency program, individual proficiency component of the RMP program, or the National Radon Contractor Proficiency program until the ap-

propriate remittance provided in § 195.20(a) has been received by EPA. Failure by a currently EPA-listed organization or individual to remit the required fees in a timely manner will result in the loss of that organization's or individual's listing status as specified in § 195.20(c).

## SUBCHAPTER G—NOISE ABATEMENT PROGRAMS

### PART 201—NOISE EMISSION STANDARDS FOR TRANSPORTATION EQUIPMENT; INTERSTATE RAIL CARRIERS

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SWITCHER LOCOMOTIVES

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201.24 Procedures for measurement at a 30 meter (100 feet) distance of the noise from locomotive and rail car operations and locomotive load cell test stands.

201.25 Measurement location and weather conditions for measurement on receiving property of the noise of retarders, car coupling, locomotive load cell test stands, and stationary locomotives.

201.26 Procedures for the measurement on receiving property of retarder and car coupling noise.

201.27 Procedures for: (1) Determining applicability of the locomotive load cell test stand standard and switcher locomotive standard by noise measurement on a receiving property; (2) measurement of locomotive load cell test stands more than 120 meters (400 feet) on a receiving property.

201.28 Testing by railroad to determine probable compliance with the standard.

AUTHORITY: Noise Control Act of 1972, sec. 17(a), 86 Stat. 1234 (42 U.S.C. 4916(a)).

SOURCE: 45 FR 1263, Jan. 4, 1980, unless otherwise noted.

#### Subpart A—General Provisions

##### § 201.1 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them in the Act:

(a) *Act* means the Noise Control Act of 1972 (Pub. L. 92–574, 86 Stat. 1234).

(b) *Car Coupling Sound* means a sound which is heard and identified by the observer as that of car coupling impact, and that causes a sound level meter indicator (FAST) to register an increase of at least ten decibels above the level observed immediately before hearing the sound.

(c) *Carrier* means a common carrier by railroad, or partly by railroad and partly by water, within the continental United States, subject to the Interstate Commerce Act, as amended, excluding street, suburban, and interurban electric railways unless operated as a part of a general railroad system of transportation.

(d) *Classification of Railroads* means the division of railroad industry operating companies by the Interstate Commerce Commission into three categories. As of 1978, Class I railroads